

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

DATE OF ORDER : 14.5.2002

OA No. 556/2001

Krishna Kumar Gaur son of Late Shri Hukum Singh aged about 29 years, resident of 1184/26, Ghisa Patel Ki Jamin, Bhagwan Ganj, Ajmer.

....Applicant.

VERSUS

1. Union of india through General Manager, Western Railway, Churchgate, Mumbai.
2. Chief Work Manager (Establishment), Loco Workshop, Western Railway, Ajmer.
3. Sr. Personnel Officer (Establishment), Loco Workshop, Western Railway, Ajmer.

....Respondents.

Mr. C.B. Sharma, Counsel for the applicant.

Mr. R.G. Gupta, counsel for the respondents.

CORAM

Hon'ble Mr. A.P. Nagrath, Member (Administrative)

Hon'ble Mr. J.K. Kaushik, Member (Judicial)

ORDER

PER HON'BLE MR. A.P. NAGRATH, MEMBER (ADMINISTRATIVE)

The applicant is the son of late Shri Hukum Singh, who died in harness on 12.8.1974. As per the applicant, on the date of his death his late father was working as a Khallasi in Loco Workshop, Ajmer, Western Railway. He has filed this OA with a prayer that the respondents be directed to extend the benefit of family pension w.e.f. 13.8.1974 with all consequential benefits including arrears of family pension and interest on delayed payments. He claims to be the beneficiary of this family pension, as his mother had

remarried in 1975 leaving the two children i.e. the applicant and her sister under the care of their grandmother

2. The respondents have denied the claim of the applicant for the reason that Late Shri Hukum Singh was only a temporary status Khallasi at the time of his death and that in terms of Para 101 (2b) of Manual of Railway Pension Rules 1950 (1969 Edition), Family pension becomes payable only if the ex. employee had completed one year's qualifying service at the time of his death. Since late Shri Hukum Singh had never been regularised and was only a temporary status Khallasi, no pensionary benefits are admissible.

3. Learned counsel for the applicant vehemently argued that there was nothing to substantiate that father of the applicant had not acquired the status of a regular employee. He further stressed that pension/family pension is a recurring cause of action and the applicant is entitled to not only authorisation of pension but also to arrears on this account right from 13.8.1974, alongwith interest.

4. Learned counsel for the respondents, on the other hand reiterated the stand of the department that Late Shri Hukum Singh was never appointed in a substantiated capacity and thus on his death no family pension becomes payable. His contention was that onus was on the applicant to substantiate that his late father had attained the status of a regular employee and that in a substantive capacity he had rendered that one year of qualifying service, to become entitled to family pension.

5. We have carefully considered the facts of the case and arguments advanced by the learned counsel on either side.

6. We find from Annexure A/1 that the applicant was about three years of age at the time of his father's death.



So, at the time of filing this application, he was 30 years of age. Government of India, Department of Pension & Pension Welfare O.M. No. F, 45/86/97P&PW(A) Part I dated the 27th October, 1997 lays down as under :-


"For the purpose of grant of Family Pension, the definition of Family shall also include :-

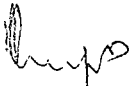
(a)

(b) Son/daughter including widowed/divorced daughter till he/she attains the age of 25 years or upto the date of his/her marriage; whichever is earlier."

The applicant, as we have stated above, is more than 30 years of age and thus is not entitled to receive Family pension. In other words, he does not have any locus standi to claim this benefit for which he has made a prayer in the application. Even considering the best case in favour of the applicant, that family pension was payable and the applicant was already receiving the same, this would have come to a stop, the day he completed the age of 25 years. If we were to accept his prayer at all, he could have been held entitled to receive the family pension at the most starting from three years before filing of this application, as having slept over his right, there was no way the benefit could have been granted to him from any earlier date. The legal position in this regard is well settled. So, three years prior to filing of the application the applicant had already crossed the age of 25 years and thus would have been held ineligible to receive family pension. This is notwithstanding the fact, that the rule position, as stated by the respondents is against him. Looking from any angle, the applicant has totally failed to make out any case in his favour.

7. In the light of discussion aforesaid, we dismiss this OA as totally devoid of merits. No order as to costs.


(J.K. KAUSHIK)
MEMBER (J)


(A.P. NAGRATH)
MEMBER (A)